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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/519,036

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Scott Allan Kendall

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Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton, NJ 08543-5312

EXAMINER

BAIG, SAHAR A

ART UNIT

PAPER NUMBER

2424

MAIL DATE

DELIVERY MODE

10/14/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/519,036	Applicant(s) KENDALL ET AL.	
	Examiner SAHAR A. BAIG	Art Unit 2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 06/03/2009 have been fully considered but they are not persuasive. Applicant argues on Page 3 of the Remarks section that Zimmerman does not provide an interface to allow individual selection of presentation, alert type, and subsystem activation for each event type. Examiner respectfully disagrees. In Zimmerman a user is able to specify information that may be suitably used to determine a level of importance that a detected special event has to the subscriber (selection of presentation) and preferences for contacting the subscriber in the event of a special event of interest (alert type). Zimmerman also discloses that the channel selection controller associated with special event processor may cause the TV to tune to a default or selected emergency channel. It may also cause the tuner to set the volume of the radio or television to a "HIGH" level for emergency notification purposes (subsystem activation for each event type). Therefore Zimmerman discloses that a user can individually select a plurality of alert outputs for a plurality of different emergencies events regardless of a comparison with a threshold.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Art Unit: 2424

3. Claims 1, 8, and 15 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The phrase “regardless of a comparison with a threshold” has been recited in the claims to somehow eliminate the comparison with a threshold value. However applicant’s specification does not provide support for this limitation since there is nothing in the specifications that suggests that a comparison is made with a threshold value. The express exclusion of certain elements implies the permissible inclusion of all other elements not so expressly excluded which clearly demonstrates that the introduction of negative limitations not explicitly supported by the specification as originally filed do in fact introduce new concepts and are therefore new matter. Ex parte Grasselli 231 USPQ 394.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-6, 8-13, and 15-20, rejected under 35 U.S.C. 103(a) as being unpatentable over Zimmerman et al. (US Patent Publication No. 2003/0093789).

Art Unit: 2424

Regarding Claim 1, 8, and 15, Zimmerman discloses in **Figure 3** a television signal receiver **315** having an emergency alert function, comprising: a tuner **310** operative to tune a frequency including emergency alert signals indicating a type of emergency event **[0016 lines 13-15]**; and a processor operative to enable an alert output responsive to the emergency alert signals, wherein the alert output is provided in accordance with a user selectable alert mode corresponding to the type of emergency event **[0020]**. Zimmerman also discloses a method of setting user selectable alert modes corresponding to each of a plurality of types of emergency event; wherein said interface allows said user to individually select for each of a plurality of types of emergency events: whether, regardless of a comparison with a threshold, a message will be presented **[0082 “dispatching a wireless message...”]**, whether, regardless of a comparison with a threshold, a presentation subsystem will be placed into an active mode **[0082 “turn “ON” select appliances...”]**, and at least one type of alert output that is to be presented **[0082 “contacting the subscriber...”]**. However Zimmerman fails to explicitly teach the use of an interface. The combination of these prior art elements according to known methods as disclosed in Zimmerman would have yielded predictable results, particularly the use of a “subscriber profile” **[0020]**. Therefore it would have been obvious to one of ordinary skill in the art to generate an interface that facilitates user interaction in order to allow the user to “rank” or prioritize their profile.

Art Unit: 2424

Regarding Claim 2, Zimmerman discloses a method of enabling a user to turn the alert output on and off **[0068** *The ON/OFF status of television 300 is controlled by an operator using either a remote control or a manual switch to generate an ON/OFF signal]*.

Regarding Claim 3, 6, 10, 13, 17, and 20 Zimmerman discloses that the processor is further operative to enable a plurality of alert outputs responsive to the emergency alert signals, and the plurality of alert outputs are provided in accordance with a plurality of user selectable alert modes corresponding to the type of emergency event **[0013** *The broadcast special event content may suitably be indicative of a public alarm, an emergency warning, an event of interest (e.g., local, regional, national or international political, economic, social, government or like event), as well as any event that is of interest to a subscriber, subscriber group or subscriber type, or the like, the latter may be defined, at least in part, by a subscriber profile]*.

Regarding Claims 4, 5, 11, 12, 18, and 19, Zimmerman discloses the alert outputs **Figure 1** to be in the form of visual **182** and aural **181** outputs.

Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2424

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 7, 14, and 21, rejected under 35 U.S.C. 103(a) as being unpatentable over Zimmerman et al. (US Patent Publication No. 2003/0093789) in view of Letzt et al. (US Patent No. 5,612,869).

Regarding Claim 7, 14, and 21, Zimmerman discloses the entire claimed feature of the present invention except the means to not completely turn off at least one of the plurality of the outputs. In an analogous art, Letzt describes an alert system where a user cannot turn off the volume entirely and miss an alert [**Col. 19 line 65 – Col. 20 line 6**]. Therefore it would have been obvious to one of ordinary skill in the art to combine the teachings of Zimmerman and Letzt to manufacture a system wherein a user is able to hear emergency broadcasts and survive a disaster.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

Art Unit: 2424

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SAHAR A. BAIG whose telephone number is (571)270-3005. The examiner can normally be reached on Monday-Friday (8:00 - 4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Christopher Kelley/
Supervisory Patent Examiner, Art
Unit 2424

SB